

## Simon Says

### Chapters

#### Chapter 31 :

*Respecting Individual Rights and Personal Beliefs: Discrimination Prohibited (WAC 388-150-390). Religious Activities (WAC 388-150-400). Special Requirements Regarding American Indian Children (WAC 388-150-410).*

#### Chapter 32

*Child Abuse, Neglect, and Exploitation (WAC 388-150-420).*

#### Chapter 33

*Prohibited Substances (WAC 388-150-430).*

#### Chapter 34

*Limitations to Persons on Premises (WAC 388-150-440).*

## *Regulations, best practices, and helpful hints about:* **Agency Practices**

### Chapter 31. WAC 388-150-390 to WAC 388-150-410

#### **Respecting Individual Rights and Personal Beliefs**

##### **Nondiscrimination**

Chapter 49.60 of the Revised Code of Washington (RCW) describes the rules and procedures for the state Human Rights Commission. In part, it states:

“The right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental or physical handicap is recognized as and declared to be a civil right. This right shall include, but not be limited to: (a) The right to obtain and hold employment without discrimination; (b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement.” This applies to child day care centers.

The law means that you cannot turn down people for staff positions for one of the above reasons if they can do the job.

You must take steps to adjust job duties or provide physical support so that people with mental or physical disabilities can do the job.

The RCW goes on to spell out the steps people can take if they feel someone has violated their rights. These include contacting the Human Rights Commission at: 402 Evergreen Plaza Bldg., 7th and Capitol Way, Olympia, WA 98504, (206) 753-6770.

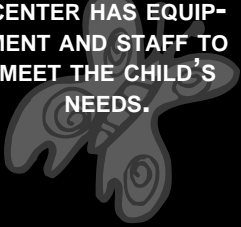
People seeking information or filing a complaint about a DSHS licensee may contact the Office of Equal Opportunity. The address is: Professional Arts Building, MS: ED-01, Olympia, WA 98504, (206) 753-4070.

Your licensor can provide nondiscrimination posters, guidelines for developing a grievance procedure, and information on interpreter services.

Centers built before 1977 and having fewer than 15 employees may not need to make facility changes for people with special needs. All centers, however, must make reasonable efforts to:

- Serve disabled children
- Care for children with special needs in the main group
- Provide training resources for staff

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You cannot deny a child a place in your center because of a sensory, mental, or physical handicap if the center has equipment and staff to meet the child's needs. In practice, staff skills may need to be higher, staff:child ratios lower, and program supervision greater if you enroll children with special needs. All the children in your program, however, will benefit from learning firsthand about special needs.

In addition, the importance you place on treating all people fairly sets an example for the children in your care. What you say, the way you say it, the way you act, and even your choice of books and other materials can help children think well of themselves and all other people.

You must include center policies on discrimination in the written material you give parents when they enroll their child. See the resource section for the rights guaranteed by federal legislation:

- Title IV, Civil Rights Act of 1964
- Section 504, Rehabilitation Act of 1973

### **Recognizing People's Religious Convictions**

Whatever position your center takes about its instruction and practices, it is important the parents know your plans ahead of time. Your program's religious content can be a very important point for parents who are deciding whether they want to enroll their child in your program. The written material you give parents who decide on your center must contain your center's policy and procedures about religious activities.



*If your center shares space with a church, parents may wonder if your program also includes religious instruction. They may have concerns if there are religious pictures on the walls in areas the children receive care. If yours is not a religious program, make the separation clear from the start. Let parents know what you tell children who ask about religious objects that they see in the center.*

If your center is not linked to a church, the children who attend still have a right to their own religions. You can neither force a child to say grace, or prevent a child from saying grace. Tell parents you want to know about activities they expect their child to do or not to do at your center. Let them know you will do your part to see that staff honor their wishes. In some religions, for example, birthday parties are improper. Parents may wish their child to receive care temporarily in another part of the building when such events are taking place.

## **Non-Discrimination Policy**

It is the Policy of this child care center that no person shall be subjected to discrimination because of race, color, national origin, sex, sexual orientation, age, religion, creed, marital status, disabled or Vietnam Era Veteran status, or the presence of any physical, mental, or sensory handicap.

This policy is consistent with Titles VI and VII of the 1964 Civil Rights Act; Sections 503 and 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; the Governor's Executive Order 85-09; and the Washington State Laws Against Discrimination, RCW 49.60.

This Policy applies to every aspect of the agency's programs, practices, policies, and activities, including client services and employment practices.



*Introduce children to the rich variety of human history. Cover a range of philosophies, moral systems, and religions rather than cut out all religious elements.*

*Be careful to avoid a “tourist” mentality centering on the parts of people’s beliefs that seem odd or different. Holidays from around the world can be part of your activity program, but show people practicing their religious beliefs in everyday settings. Make it clear that people in your own community, perhaps even within your own center, practice that religion. Invite parents to share their special days with the children.*



*Children tell each other bits and pieces they pick up from many sources. They argue about the existence of god, demons, ghosts, witches, and the tooth fairy. They have ideas about where people go when they die. Since these are all important issues, children are likely to ask you to settle the matter once and for all: Who is right, and who is wrong?*

*Unless parents consent to a certain religion as part of your program, your answer should be very general. Such questions give you an opening to talk about the wide variety of beliefs present in the world. Let them know that nobody’s belief is “dumb” or “weird.”*

### **Meeting the Needs of Native American Children and Other Cultural Minorities**

Because of their unique position as descendants of the first people to live in North America, Native Americans have special legal rights protecting their cultural identity. One important law is the Indian Child Welfare Act, passed by the federal government in 1978. In 1987, the Washington State governor signed the Tribal-State Indian Child Welfare Agreement. This tells how DSHS is to coordinate services with tribal governments.

Indian tribes and some urban areas have Local Indian Child Welfare Advisory Committees (LICWACs) which advise DSHS about Indian services. Most of the laws and the activities of the LICWACs deal with Child Protective Services, adoption, foster care, and family counseling.

Centers must be sensitive in their policies, routines, and activities to all cultures. In the summary below, Native Americans are used as a means for repeating some of the warnings about cultural bias we mention elsewhere in the guidebook:

- Talk about the past as well as the present. Indian families and cultures are alive and well today. Children need positive images of Native Americans living and working today, not just hundreds of years ago.
- Don't group all Native Americans into a single category. There are many tribes in the State of Washington, each with its own unique history and customs. Very few will fit the white culture's understanding of Indians because by and large that understanding comes from the tribes of the Great Plains.
- Don't assume that all families belonging to a certain tribe have the same customs. Each Native American family has its own personal history. Some of them practice tribal customs and values; others have assimilated more into the majority culture. Try not to base your opinion of people on the way they look or on some label out of a book.
- Be aware of your own cultural biases. All of us have values which others do not share. Most people learn to adjust to systems that are different from the ones they know. What is important is that we:
  - (1) Honestly communicate our expectations and intentions.
  - (2) Respect that others may do things differently.

### **Traditional Native American Values**

A child may have learned certain values and behaviors at home that are different from those you want at the center. Unless your staff is aware of this possibility, they may not understand the children or their families.

For example, don't assume that all Native American families have the same values. Some Native American parents may:

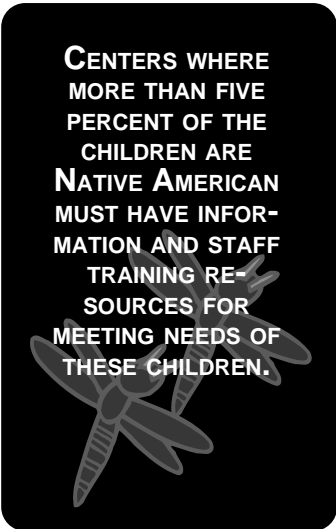
- Allow children to develop freely and to make their own decisions and mistakes. Providers would be wrong to see these children as not obedient or spoiled.
- Share responsibility for child-rearing with many members of the extended family and the tribe. (Grandparents play a particularly important role.) Providers would be wrong to see these parents as neglecting their child.
- Stress being modest, keeping silent, and working for the betterment of the group. Indian children are taught that they learn by listening, not by talking. Providers would be wrong to see children from these homes as too shy, lazy, or dumb.
- Avoid prolonged eye contact and avoid people with whom they disagree rather than confront them. Providers would be wrong to see these parents or their children as sneaky or too quiet.
- Stress self-reliance. Children learn from watching, copying, and doing. They may want to practice in private rather than in front of others. Getting help from outsiders could bring shame. Providers would be wrong to see these children as stubborn or lazy.

### **Sources of Information**

Centers where more than five percent of the children are Native American must have information and staff training resources for meeting needs of these children. If you are not familiar with local tribes and Indian groups, your primary source of information may be the DSHS Indian Policy and Support Service in Olympia. (See Resource list.) In 1991, DSHS hired one regional Indian Service Coordinator for each of the six regions in the state. These people may have information you can borrow or copy. Some groups have developed Native American curriculum materials; for example, Gonzaga University in the Spokane area and the United Indians of All Tribes Foundation in the Seattle area. Your licensor or other providers in your area may also be able to give you good local contacts.

Information you will want to have available for parents or staff training:

- The names, locations, and phone numbers of Indian tribes in your region. You should also have the number of your nearest LICWAC, in case a family needs advice on other social services.
- Reading material, stories, legends, and videos to share with the children.
- Places to visit in your area, such as exhibits in museums and cultural centers.
- Health and nutrition information. Tribal health programs can be sources of information. Indian Health Service clinics or Urban Indian Health Centers provide both information and health services.



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## Chapter 32. WAC 388-150-420

### Child Abuse, Neglect, and Exploitation

#### The Regulations

WAC 388-150-480 states that you must report suspected child abuse, neglect, or exploitation to Child Protective Services (CPS) or your local law enforcement agency immediately. You should also inform your licensor.

Chapter 26.44 of the Revised Code of Washington (RCW) describes the rules and procedures for dealing with the abuse of children, adult dependents, or persons with developmental disabilities. In part, it states:

“When any licensed or certified child care provider or their employees has reasonable cause to believe that a child . . . has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.”

#### The RCW further specifies:

- What possible actions CPS may take following a report.
- That you are immune from any civil or criminal liabilities if you report a case of suspected child abuse in good faith.
- That, as part of a suspected abuse investigation, CPS has the right to interview the child in your center and look at any of your files.
- That you can be charged with a gross misdemeanor if you do NOT report a suspected case of child abuse.

### What Constitutes Child Abuse and Neglect?

#### Definitions of Abuse and Neglect:

- Infliction of physical injury on a child by other than accidental means, causing death, disfigurement, skin bruising, impairment of physical or emotional health or loss or impairment of any bodily function.
- Creating a substantial risk of physical harm to a child's bodily functioning.
- Committing or allowing to be committed any sexual offense against a child as defined in the criminal code, or intentionally touching, either directly or through clothing, the genitals, anus or breasts of a child for other than hygiene or child care purposes.
- Committing acts which are cruel or inhumane regardless of observable injury. Such acts may include, but are not limited to, instances of extreme discipline demonstrating a disregard of a child's pain and/or mental suffering.
- Assaulting or criminally mistreating a child as defined by the criminal code.
- Failing to provide food, shelter, clothing, supervision or health care necessary to a child's health or safety.

- Engaging in actions or omissions resulting in injury to, or creating a substantial risk to the physical or mental health or development of a child.
- Failing to take reasonable steps to prevent the occurrence of the above.

Not all acts of abuse involve physical harm to a child. For example, persistent mental cruelty or threats or failure to adequately supervise are also types of child abuse.

### **If You Suspect a Child is a Victim of Abuse or Neglect**

You are in a unique position to recognize abusive situations in the early stages and to take actions that will end the cycle of abuse. You **must** contact CPS if you even suspect that certain injuries or bruises may not be accidental. You **must** contact CPS if you see signs of emotional or sexual abuse or physical neglect. Even if you have made a report to CPS about a particular child earlier, you must report each new injury or incident. The phone number for CPS should be among the emergency numbers posted by your telephone.

You are not required to tell the parents you are making a report. As you develop the opinion that this child may be the victim of abuse and neglect, you may have had a series of discussions with the parents asking for information and expressing your concerns. Do not, however, attempt to interview the child or attempt to handle the situation yourself. Both interviewing and investigating are the responsibility of CPS. The pamphlet “Child Day Care and CPS, DSHS 22-176(X)” outlines indicators of physical abuse and neglect, emotional abuse and neglect, and sexual abuse. Your licenser can supply you with a copy of the pamphlet, which offers more detailed information.

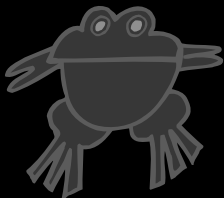
A family will probably be angry with you for reporting them to CPS. You may need to remind them that you are required by law to report suspected instances of abuse and neglect. One of the reasons for informing parents in your parent policies of your CPS reporting responsibilities is to try to reduce the potential shock, outrage, or embarrassment if the situation arises.

*Tell parents that you are **REQUIRED** to report suspected child abuse and/or neglect.*

Calling CPS does not mean CPS will actually investigate the family. A social worker screens incoming calls to determine if the case requires further investigation. This social worker can also answer any questions you have about how to respond to a certain situation. CPS’ response is both child-focused and family-oriented. Their purpose is to safeguard the child while helping ease the circumstances and behavior patterns causing the abusive situation.

Abuse often results from a crisis that puts stress on the family and taxes the parents’ ability to cope. If the parents continue using your child care center, you can help ease the crises by providing a calm, stable, and nurturing environment for their child. You can offer them comfort and support as they deal with their situation.

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Be sensitive to the needs of the child in question. Reassure the child that it's okay to talk about the incident. Reassure the child that it's not their fault. Handle behavior problems in an understanding but firm fashion. Remain a supportive presence for the child as the investigation unfolds.

### **If You or Someone Working for You is Reported to CPS for Suspected Child Abuse**

Sometimes parents report providers to CPS. Parents may be responding unrealistically to something they have seen or something their children have told them. CPS will investigate the facts and seriousness of the incidents in question. This not only safeguards the children but the good name of your center as well.

If CPS conducts an investigation, be cooperative and allow it to proceed. CPS personnel have the right to interview children in your center, with or without you or the parents present.

CPS may tell you to ensure that an employee or a volunteer under investigation is not left alone with children. If you are the one under investigation, CPS may require you to take a leave of absence or suspend care until the investigation is complete. If you have direct evidence that your employee did something which endangers the children or violates the conditions of your license (see WAC 388-150-090), you can dismiss the employee. For your own legal protection, do not fire or suspend an employee simply because CPS is investigating them. Your licensor will be working closely with CPS and local law enforcement officers. Your licensor will let you know when you should suspend or fire an employee.

You do not need to inform the parents that your facility is being investigated, but be aware that rumors do spread. When the investigation is complete, you may want to tell the parents about the investigation. Inform them what steps, if any, you have taken as a result of the incident. You must not mention the specific names of the children in question.



*The “best defense” is a “good offense.” You need to have policies and practices which prevent charges of child abuse or neglect:*

- *Make sure the center and outside play area are safe and free of hazards.*
- *Make sure you and your staff properly supervise the children.*
- *Advise your staff to be aware of appearances in how they touch children or play with them.*

- *Be sure that your staff understand your behavior management and discipline policies, and use them.*
- *Arrange schedules and staff supervision so no staff member is routinely alone with the children for long periods of time.*

## Chapter 33. WAC 388-150-430

### Prohibited Substances

#### Alcohol and Illegal Drugs

Children and drugs don't mix. Center personnel cannot be under the influence of alcohol or illegal drugs while on the job. That means they cannot consume these substances at work or before coming to work. Use of illegal drugs and excessive use of alcohol can lead to termination of employment and possible loss of license.



*There may be occasions where a parent or other appointed person who picks up a child appears to have been drinking or using drugs. You should not release a child to an adult who is obviously impaired, ESPECIALLY if that person is driving. Here are some steps you might want to take for the child's sake and your own:*

- *Ask for permission to call a backup person on the authorized pick-up list.*
- *Volunteer to call a cab or give directions to a bus stop.*
- *Volunteer yourself or one of your staff as a driver.*

*If the person insists on leaving with the child and you fear for the child's safety, tell the person you will call CPS or law enforcement. You may lose a customer, but you may also prevent a tragedy.*

#### Cigarettes

Smoking is also inappropriate in a child care setting. It not only can injure the children through second hand smoke, it serves as a poor model for their own future behavior.

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Neither center personnel nor parents may smoke inside the center or in a vehicle transporting children at any time. If staff members wish to smoke, they must do so away from children and the building so that children cannot breathe second hand smoke. Best practice is for staff to smoke where the children cannot see them.

## Chapter 34. WAC 388-150-440

### Limitations to Persons on Premises

In the current climate of high concern about child abuse, providers must be both watchful and sensitive.

They must carefully control who has access to children. No one should have regular or unsupervised access to children who does not have official business at the center. In orientation sessions, encourage staff to challenge any adult they see in the facility or on the playground who they suspect may not belong there.

Staff should be especially careful about who they let sign out a child. Parents can indicate persons they authorize to pick up their child on:

- The enrollment form.
- The sign-in/sign-out sheet.

If you have no proof a person is authorized to pick up a child, you must not release the child. Try to contact the parents by phone, or call one of the backup people on the authorized list. It is better for staff to double check than to let a tragedy happen.



*Encourage parents to tell you and their child when someone other than the regular person will pick up the child. Advance notice helps even if the person who shows up is already on the authorized pickup list. Staff and children will then know who to expect. This extra effort will reduce confusion and disappointment.*

Parents have a right to be in the center any time they choose and to visit any part of the center their child uses. Staff must not, however, leave them alone unsupervised with children other than their own.

A parent or guardian may want to prevent one of the child's parents from visiting or picking up the child. In this case, the person making the request must supply the center with a copy of a court-issued restraining order. Keep the restraining order on file at the center, and advise all personnel of the order. If concern develops, be cautious, telephone law enforcement or CPS.